

**Testimony by Verlie M. Ruffin, Children's Ombudsman
HB 4050**

**Family and Children's Services Committee
February 13, 2013**

Good afternoon Mr. Chairman and Members of the Committee.
My name is Verlie Ruffin and I am the Ombudsman for the Office of Children's Ombudsman (OCO). Joining me today is Charlotte Smith, OCO Supervisor.

Among other duties, the OCO is responsible for investigating complaints about the handling of children's cases by the Department of Human Services and private child placing agencies with respect to children's protective services, foster care, adoption services and juvenile justice. Our investigations consist of reviewing agency actions to determine whether they complied with law and policies.

I am here today to testify on behalf of several amendments to the Children's Ombudsman Act (PA 204) as delineated in HB 4050. The Children's Ombudsman Act was strengthened by Adriana's law in 2005 and now several years later, amendments are needed. I am confident that the changes I am requesting will better equip our office in meeting the needs of the children and families involved in the child welfare system.

Charlotte and I will provide an overview of the amendments I am requesting as outlined in the attached document: "Summary of Proposed Changes to the Children's Ombudsman Act (COA), February 2013."

Summary of Proposed Changes To The Children's Ombudsman Act (COA) February 2013

Section 5a(d)

Currently the COA states that the Ombudsman shall "review each departmental death review team study in which a child's death may have resulted from child abuse or child neglect." The child death review team study does not exist and never has, so the OCO would like to strike the language.

Section 6

There is currently no statutory requirement that the OCO investigate cases where a child may have died as a result of possible child abuse or neglect. Although the OCO, on its own, has been conducting investigations, it is important to include specific language in the statute. The OCO believes this is in keeping with the intent of the 2005 amendments and has become an expected practice among the public and legislature.

Section 6c and Section 7(1) & 7(2)

References to investigating adoption attorneys were removed by the legislature in the 2005 amendments. Legally, the OCO cannot investigate any attorneys since that is the responsibility of the State Court Administrative Office and/or the Attorney Grievance Commission.

Section 6(D)

This section had a sunset provision of 1/3/2010. OCO would like to be able to have subpoena power. The DHS director suggested that the OCO should have this section returned to the statute.

Section 8(3)

The 2005 amendments to the OCO's statute included the authority to investigate juvenile delinquency cases. (See Section 5a). Juvenile delinquency is added here for consistency as were the words Management and Budget.

References to specific computer systems was deleted because the names of the systems used by DHS changes periodically. DHS will be phasing out SWSS and replacing it with a new system in 2013 and CIMS is no longer used.

Section 9(4)

This proposed amendment would allow the OCO to share the results of its investigation with officials handling a criminal case. Currently, the Ombudsman cannot release the results of an investigation to our complainant if there is an ongoing CPS or criminal investigation. The amendment would give the OCO the authority to release *the results* of its investigation to a complainant if law enforcement, local prosecutor, or DHS has indicated that either their investigation is closed or that the release of the Ombudsman's report will not interfere with their ongoing investigation.

OCO routinely contacts CPS to find out if there is an ongoing investigation. The OCO also instituted a procedure that requires contacting the local prosecuting attorney about a criminal case that involves the same children in a case the OCO has investigated. The purpose of the contact is to find out whether releasing the results of the OCO investigation would interfere with the criminal case or ongoing law enforcement investigation. Prosecuting attorneys have been open to informing the OCO of their decision and appreciate being contacted. However, an inherent problem is that the OCO cannot legally share the results of the OCO's investigation (whether DHS violated law, policy or procedure) with law enforcement or the prosecuting attorney. Before being able to make an informed decision about whether information obtained by the OCO would interfere with the criminal case, the prosecuting attorney or detective wants to know what information the OCO has.

If the OCO cannot share the results of its investigation with individuals handling the criminal case/investigation, the OCO complainant must wait until after the legal case has concluded (including any ensuing trial). The Ricky Holland case is an example where the OCO's investigation was completed but since the Holland's criminal trial was ongoing, it was months before the OCO could provide complainants with the results of the OCO's investigation. It was later determined that none of the information contained in the OCO's violation report was relevant to the criminal case.

Section 9(5)

This proposed amendment would require that the OCO receive notice from DHS or the prosecuting attorney prior to providing the complainant with the results of an OCO investigation.